

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION
FILED
IN CLERKS OFFICE

MARK ULIANO,
Plaintiff

v.

MARIE H. BISSEL and
KENNETH J. TILDEN,
Defendants

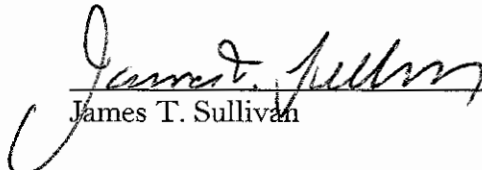
2005 SEP 29 P 1:49

U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
CIVIL ACTION NO. 04-10797-JGD

AFFIDAVIT UNDER M.G.L. c. 233, §79G

Before me, the undersigned Notary Public, in and for the Commonwealth of Massachusetts, personally appeared James T. Sullivan, who was made known to me, and being by me first duly sworn, deposes on oath as follows:

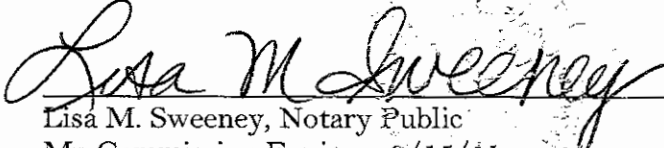
1. My name is James T. Sullivan, and I represent the defendant, Kenneth J. Tilden.
2. On September 8, 2005, written notice of my intention to offer into evidence at the time of trial the report of independent medical examination performed by Robert R. Pennell, M.D. dated August 16, 2005, pertaining to Mark Uliano, was given to Stephen J. Delamere, Esquire by mailing a copy of same, certified mail, return receipt requested.
3. Attached to this affidavit is the return receipt showing delivery to counsel of record.
4. Also attached hereto is a copy of the written notice.


James T. Sullivan

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 29th day of September, 2005, before me, the undersigned notary public, personally appeared James T. Sullivan, proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.


Lisa M. Sweeney, Notary Public
My Commission Expires: 9/15/11

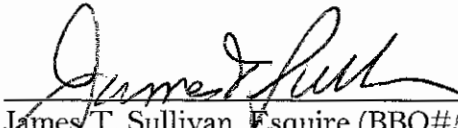
CERTIFICATE OF SERVICE

I, James T. Sullivan, hereby certify that I have this 29th day of September, 2005, forwarded the within *Affidavit Under M.G.L., c.233, §79G* to all counsel of record by delivering a copy of same, in hand, to:

Stephen J. Delamere, Esquire
BIERHANS, DELAMERE & COHEN, LLC
294 Pleasant Street, Suite 204
Stoughton, MA 02072

James C. Crowley, Jr., Esquire
FULLER, ROSENBERG, PALMER & BELIVEAU, LLP
340 Main Street
Worcester, MA 01608

Elton Watkins, III, Esquire
238 Essex Street, 2nd Floor
Lawrence, MA 01840



James T. Sullivan, Esquire (BBO#565700)
AVERY, DOOLEY, POST & AVERY, LLP
90 Concord Avenue
Belmont, MA 02478
(617) 489-5300

AVERY DOOLEY POST & AVERY, LLP

Attorneys at Law

90 Concord Avenue Belmont, MA 02478

Telephone: (617) 489-5300

Fax: (617) 489-0085

September 8, 2005

CERTIFIED MAIL/

RETURN RECEIPT REQUESTED

No. 7004 0750 0002 9159 6131

Stephen J. Delamere, Esquire
BIERHANS, DELAMERE & COHEN, LLC
294 Pleasant Street, Suite 204
Stoughton, MA 02072

Re: Mark Uliano v. Marie H. Bissel and Kenneth J. Tilden
United States District Court, C.A. No. 04 10797 GAO
Our File No. IJS-051004-8174

Dear Mr. Delamere:

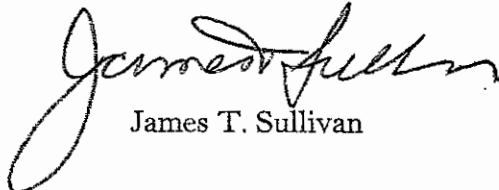
Please be informed that the defendant, Kenneth J. Tilden, intends to produce as evidence at trial, pursuant to M.G.L. c.233, §79G, as amended; the medical examination report of the following:

1. Report of Robert R. Pennell, M.D., dated August 16, 2005.

Also pursuant to the statute, please find enclosed an accurate photocopy of the medical report.

Very truly yours,

AVERY, DOOLEY, POST & AVERY, LLP



James T. Sullivan

JTS/lmt
Enclosure

Cc: James C. Crowley, Jr., Esquire
Elton Watkins, III, Esquire